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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ATSUSHI MISAWA

Appeal 2007-3096
Application 09/663,354
Technology Center 2600

Oral Hearing Held: January 22, 2008

Before KENNETH W. HAIRSTON, SCOTT R. BOALICK, and JOHN A. JEFFERY, Administrative Patent Judges

ON BEHALF OF THE APPELLANTS:

CATHERINE M. VOISINET, ESQUIRE
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The above-entitled matter came on for hearing on Tuesday, January 22, 2008, commencing at 9:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, 9th Floor, Alexandria, Virginia, before Dawn A. Brown, Notary Public.

1 THE USHER: Calendar Number 29, Appeal 2007-3096, Ms.
2 Voisinnet.

3 MS. VOISINET: Good morning.

4 JUDGE HAIRSTON: Good morning.

5 MS. VOISINET: My name is Catherine Voisinnet. I'm the attorney
6 for the appellant in this case. If I can just start and just give a brief overview
7 of our invention.

8 Our inventors appreciated at the time the invention was made that
9 internal built-in memory can be expensive, and it also creates a limit on the
10 size of your digital camera. So they provided for a camera that had a
11 reasonable amount of internal memory where you can use the camera
12 without the insertion of an external memory card.

13 You can use your camera, take your pictures, and then after you've
14 taken a number of pictures, you can insert the external memory card.

15 Upon detection of the external memory card, the memory controller
16 automatically transfers the image data from the built-in memory to the
17 external memory card. And again, this cuts down on the cost of internal
18 memory and also the size of the camera.

19 The examiner rejects the claims based on two references, the first
20 being Sasson and the second Wakui. In the first reference, she asserts that
21 Sasson teaches all of the elements recited in the claim except for automatic
22 transfer from the built-in memory to the external memory card. And she
23 relies on the teachings of Wakui to teach the automatic-transfer feature.

24 We disagree that these references teach or suggest automatic transfer
25 from built-in memory to an external memory card. Sasson -- the invention
26 in Sasson, they seek to identify a problem that is directed to cameras of that

1 particular time where there was a need for processing the image data as
2 quickly as the image data is captured.

3 So what Sasson tried to do -- or what they did was provide a camera
4 that processes the captured image data at a different rate that the images are
5 captured.

6 And they do so by providing a number of frames or a buffer that
7 permits storage of a number of frames so that the accumulated image data
8 can stack up in the buffer and the processor can do the necessary processing
9 of the images at a different rate than the images are captured. And then once
10 images are properly compressed, they're transferred to an external memory
11 card.

12 We note that Sasson fails to teach automatic transfer from memory to
13 an external memory card, which the examiner admits. But we also disagree
14 that Sasson teaches built-in memory. Sasson merely teaches an image
15 buffer, which accumulates the image data.

16 JUDGE JEFFERY: Let me stop you there on the image buffer. Isn't
17 that what the examiner is saying is the built-in memory and that is RAM? It
18 is random access memory, right?

19 MS. VOISINET: It is, but it is volatile memory.

20 JUDGE JEFFERY: Why isn't that a built-in memory?

21 MS. VOISINET: It is a built-in memory, but when one skilled in the
22 art looks at the teachings of Sasson, the image buffer doesn't necessarily -- I
23 guess this goes more toward my combination argument.

24 You can't consider that as a built-in memory because if your external
25 memory card wasn't inserted when you were capturing the images, the
26 images would be gone upon power down. There is no persistent storage.

1 JUDGE JEFFERY: But the volatile memory --

2 MS. VOISINET: It is a volatile memory. It is the fast volatile
3 memory that does not have long-term persistent storage.

4 JUDGE JEFFERY: But a volatile memory -- could not a volatile
5 memory nonetheless be a built-in memory?

6 MS. VOISINET: It is in the sense it is incorporated in the camera, but
7 when you consider our invention and consider the teachings of Sasson and
8 the combination the examiner is trying to make, I don't think it is a fair
9 interpretation. I think it is an overly broad interpretation of our built-in
10 memory to consider that as volatile memory because once you shut the
11 camera done, your images are gone.

12 And in addition, I don't think it is fair to call that a recording memory.
13 You know, if you look at figure 1, the image buffer is indicated in the input
14 section. The compression and recording section is not incorporating the
15 image buffer. So I think Sasson really meant to have the external memory
16 card as the recording memory.

17 Our claim clearly talks about a built-in memory for storing a plurality
18 of images provided in the camera. And I think the image buffer is solely
19 incorporated in the input section, and I don't think it is a fair reading of the
20 claim to have the input buffer, a volatile fast memory input buffer to read as
21 our built-in memory.

22 JUDGE BOALICK: What is your interpretation of the claim that
23 requires us to import limitations from the specification into the claim? I'm
24 looking at the claim. I don't see anything that qualifies the built-in memory
25 as volatile or nonvolatile. Why should we -- what requires us to limit the
26 claim?

1 MS. VOISINET: Well, when you read the claims in light of our
2 specification, we do define our built-in memory as flash memory, which is
3 nonvolatile memory. And our specification does talk about -- the features of
4 our invention talk about, and I think it is enunciated in some of our
5 dependent claims, on the use of the camera without the external storage card
6 connected.

7 So certainly one skilled in the art and certainly a fair reading of the
8 claims would not presume a camera would only be good if you can view the
9 images before you power down.

10 I think that one skilled in the art and the intention of Sasson was to
11 have a camera where the images were accessible after the camera was
12 powered down, which, therefore, would require a nonvolatile persistent
13 storage memory.

14 So I think for those reasons we believe that Sasson fails to teach
15 automatic transfer, and we believe that the image buffer in Sasson is
16 insufficient to teach built-in memory -- transfer from built-in memory to an
17 external memory card.

18 The examiner relies on the teachings of Wakui to cure the deficiencies
19 of the teachings of Sasson. And the disclosure of Wakui, the problem that
20 Wakui was trying to solve, was an appreciation that flash memory tends to
21 degrade over time. So they provided for two separate built-in memories,
22 which -- well, I'm sorry. Yeah. Two separate -- that was a misstatement.

23 Provides for two types of storage devices, two types of nonvolatile
24 storage devices: Flash memory and an external memory card. And they
25 also obviously provide for an image buffer.

26 Wakui enables the camera to be used without insertion of the external

1 memory card where if a user takes a picture, the image data stored in the
2 flash memory -- and if the external memory card is inserted, then the image
3 data is stored on the external memory card.

4 The examiner relies, from the best that I can tell, on the interrupt
5 portion of the insertion of the card for the teachings of Wakui to cure the
6 deficiencies.

7 And Wakui teaches that during a recording operation, if an external
8 memory card is inserted, then the destination of the image of the recording
9 of the image data is changed from the flash memory to the external memory
10 card.

11 Now, the examiner believes that this is sufficient to teach automatic
12 transfer, but I disagree for at least two reasons: One, because I don't believe
13 that the -- for the same reasons with Sasson, the image buffer cannot take the
14 built-in memory.

15 But also, upon detection of insertion of the memory card, the image
16 data that is stored in the image buffer still needs to be processed, and it still
17 needs to be processed through the image-signal processor, through the
18 selector and then through the memory card control circuit before it is
19 actually stored on the memory card.

20 There is no automatic transfer upon detection. It still needs to go
21 through the regular processing that the camera has to do in order to properly
22 compress and prepare the image data for storage on the external memory
23 card.

24 In our invention, we automatically transfer the image data from our
25 built-in memory to our external memory card. I think the examiner is
26 mischaracterizing or taking an overly broad interpretation of the reference

1 by stating that the data is automatically transferred. I don't believe it is
2 automatically transferred. It still needs to go through a number of
3 processing steps.

4 JUDGE JEFFERY: Why wouldn't that nonetheless constitute
5 automatic transfer? Assuming that all this other processing has to occur
6 from the buffer to the -- ultimately, to the card, why couldn't that still be a
7 transfer of data, nonetheless, even though you have to go through the
8 processing?

9 MS. VOISINET: I think it is more of a redirection of destination as it
10 is an automatic transfer. I don't think that the information is processed any
11 differently because of the designation of the ultimate destination of the
12 storage.

13 It still needs to be processed in the same manner, and I don't think that
14 a changing of the destination is sufficient to teach automatic transfer upon
15 detection. I think that what Wakui teaches is that upon detection, you
16 change the destination. The information is still processed the same way.

17 So I think -- so for that reason, I think that we disagree that Wakui
18 teaches automatic transfer. And I think that it also fails to teach transfer
19 from built-in memory to an external memory card.

20 I think there are also some fundamental issues with the combination
21 or the modification of Sasson. The examiner asserts that one skilled in the
22 art would be motivated to make the modification in order to provide a more
23 simple transfer.

24 But I think that if you modified Sasson to automatically transfer from
25 this image buffer, which Sasson provides, directly to the external memory
26 card upon insertion, I think that you end up with a camera that doesn't work

1 because Sasson -- while Sasson teaches an image buffer, the data stored in
2 the image buffer is raw data and nothing -- once the images are processed,
3 there is nowhere to store the data.

4 I don't think Sasson intended for that camera to be used -- I don't think
5 it is a fair use of the camera to have no recording section as evidenced by
6 figure 1 in the camera. And I think one skilled in the art would modify that
7 camera in order to have no recording section in the camera.

8 I also think that it would -- I think it necessarily flows you would be
9 changing the principal operation of Sasson by doing that. Sasson provides
10 for an invention that is able to process images at a different rate than the
11 images are accumulated.

12 And by changing the whole processing component and by merely
13 transferring data from the -- the raw image data from the image buffer into
14 the external memory card without any processing, I think that you're
15 changing the whole operation.

16 You're circumventing the primary function of Sasson. And there is
17 also, I think, a clear teaching in the background section that talks about the
18 need to be able to properly compress and store images.

19 So I think the -- I think that there are a number of reasons why the
20 proposed modification of Sasson is improper.

21 JUDGE HAIRSTON: Is that it?

22 MS. VOISINET: Yes.

23 JUDGE HAIRSTON: Any more questions?

24 Thank you.

25 MS. VOISINET: Thank you.

26 (Whereupon, the proceedings at 9:14 a.m. were concluded.)